Remarks

These Remarks are submitted in reply to the Office Action mailed January 10, 2006. No fee is due for the addition of any new claims.

Claims 1-7, 9-16, and 18 were pending in the Application prior to the outstanding Office Action. Claims 19-21 were withdrawn from consideration. In the Office Action, the Examiner rejected claims 1-7, 9-16, and 18. Reconsideration of the rejections is requested in light of the remarks below. In addition, applicants believe that the finality of the rejection is improper and ask that the finality of the rejection be withdrawn for the reasons stated below.

I.   Summary Of Examiner's Rejections

Claims 1-7, 9-16 and 18 were rejected under 35 U.S.C. §102(e) as being anticipated by Lodrige et al. (U.S. Pat. No. 6,691,175).

II.   The Present Invention Includes A Message Superstructure of TCMs

The present invention teaches the transmission of messages each with a number of typed container modules (TCMs) contained therein. Modulated as such the message can be sent as a series of TCMs such that the receiving application can select among the TCMs and reconstruct and store the message according to its particular configuration needs. The relationship between the TCMs and the message is clearly defined such that the integrity of the entire message is not affected by dynamically modifying, adding, or removing a TCM from the message. This facilitates the handling of the message content with great flexibility and efficiency on the one hand, and provides a very simple and efficient way to add new features on the other hand. Major message content change can be achieved simply by either adding a TCM, or swapping a TCM with a different TCM.

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Minor message content change can be achieved simply by either modifying or expanding the TCM directly within the message. New features can be added simply by adding new TCMs and new code to process the new TCMs.

III.   Response to Rejections

The Finality Of The Rejection Is Plainly Improper

First it must be noted that the finality of the rejection is improper under the MPEP. The amended independent claims 1 and 10 merely incorporate the exact limitations formerly recited in the now cancelled dependent claims 8 and 17. As such the amendments to claims 1 and 10 did not raise any new issues because the patentability issues raised by those amended claims are identical to the patentability issues that were raised by the now cancelled dependent claims 8 and 17. So the amendments did not in fact necessitate the entirely new grounds of rejection presented in the Examiner's second rejection. The rejection should not have been final under such circumstances. *See* MPEP 706.07(a) ("Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement filed under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.")

Lodrige Is Actually Less Material Than Benayoun. Although Lodrige Teaches the Placement of Messages into Queues It Does Not Teach Any Message Superstructure Like That of the Present Invention

The present invention teaches and claims a system and method for sending messages. The messages of the present invention constitute a kind of superstructure

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which contains the TCMs. The relationship between the TCMs and the message is clearly defined such that the integrity of the entire message is not affected by dynamically modifying, adding, or removing a TCM from the message. Major message content change can be achieved simply by either adding a TCM, or swapping a TCM with a different TCM. Minor message content change can be achieved simply by either modifying or expanding the TCM directly within the message.

The messages of Lodrige are not properly analogous to the TCMs of the present invention because, unlike the TCMs, they are not grouped into any superstructure similar to the message and flexible message header structure of the present invention.

As Now Claimed the Present Invention Uses Pointers in the Edit Mode to Link the TCMs; There Is Nothing Comparable in Lodrige

With the present invention, when the flexible message header is in EDIT mode, each TCM, except the one containing the user data, is prefixed with a TCM Attachment Unit which comprises two pointers: one to point to the next TCM and the other to point to the previous TCM in the message. Thus in EDIT mode the successive TCMs are elegantly linked through the use pointers. This is an important difference between the present invention and the teachings of Lodrige which is reflected in both of the independent claims.

The Examiner Did Not Present Any Arguments As To The Unpatentability of Claims 2, 3, 11, and 12.

Applicants have carefully studied the Examiner's rejection and note that it contains no specific arguments as to the unpatentability of claims 2, 3, 11, and 12. These claims simply were not addressed in the Examiner's final rejection. As such the Examiner has not shown the unpatentability of these four claims. Applicants submit that claims 2, 3, 11, and 12 should be allowed.

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The Examiner's Arguments As To Unpatentability Are Simply Not Supported By The Specification of Lodrige

In five instances the Examiner's unpatentability arguments are simply not supported by the cites given to Lodrige and in a sixth instance the Examiner makes an unpatentability argument without any supporting cite nor is there any support in Lodrige for the argument.

First, on page 2 of the rejection the Examiner writes that in Lodrige there is "a flexible message header (queue header, fig. 4) and a plurality of linked typed container modules (412, 414, 416, fig. 4)". This argument is like arguing that a register is data. Figure 4 of Lodrige shows three "control headers" 412, 414, 416 and a queue header 410. These control and queue headers are plainly hardware of some kind and are not properly characterized as the linked container modules or flexible message header of the present invention which are composed of data and/or code but are not hardware entities.

Second, also on page 2 the Examiner writes the following: "wherein each typed container module is prefixed with an attachment unit which comprises a pointer to point to the next typed container module and the previous typed container module (see col 5, lines 53-63 and fig. 4)." Neither the cited text (col. 5, ll. 53-63) nor the cited figure (fig. 4) contain any mention of pointers whatsoever. The Examiner's argument is simply not supported by the Examiner's cite to the Lodrige specification. Actually the word pointer does not appears anywhere in Lodrige.

Third, on page 3 of the rejection the Examiner writes that there is "a message receiver (not shown) at the second software module for demodulating a subset of the container modules to regenerate the message (see col 6, lines 10-17)." The cited section of Lodrige discusses the "flow of [entire] messages between two or more software modules

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configured in a stack." There is no discussion in the cited text of regenerating messages from any kind of message subcomponents. Rather the only discussion in the cited text is of the "passing of [entire] messages by one software module to another software module." So again the Examiner's argument is just not supported by the cited text.

Fourth, also on page 3, the Examiner writes as follows: "Lodrige also teaches storing event user data in a separate container module (see col 5, lines 65-67). The cited section discusses maintaining "data pertaining to events in a separate queue container". There is no discussion of maintaining user data in a message subcomponent. So the Examiner's argument is again not supported by the cited text.

Fifth, also on page 3 of the rejection, the Examiner writes as follows: "It is also noted that the attachment unit is removed from the type container module when the message is received by the subsequent software module." The Examiner cites no support in the specification of Lodrige for the proposition that an attachment unit is removed from a message or message subcomponent when received by a subsequent software module. Lodrige does not mention message subcomponents at all and also does not mention removal of "attachment units" or the like from messages or message subcomponents. In other words, not only did the Examiner fail to cite any supporting text for his argument, but there is no such supporting text to be found anywhere in Lodrige.

Finally, again on page 3 of the rejection, the Examiner writes: "Per claims 6-7, Lodrige teaches that the typed container modules are linked to the flexible message header by pointers (see col 5, lines 30-33)." The cited text in Lodrige does not mention pointers and does not mention either messages or subcomponents of messages. So again the Examiner's argument is just not supported by the cited text.

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In light of the above, it is respectfully submitted that all of the claims now pending in the subject patent application should be allowable, and a Notice of Allowance is requested. The Examiner is respectfully requested to telephone the undersigned if he can assist in any way in expediting issuance of a patent.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 06-1325 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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